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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/952,001 11/07/97 CARR

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EXAMINER

PICKARD, A

ART UNIT

PAPER NUMBER

3626

DATE MAILED:

04/26/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 08/952,001	Applicant(s) Carr
Examiner Alison Pickard	Group Art Unit 3626



Responsive to communication(s) filed on Apr 10, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 55-92 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 88-92 is/are allowed.

Claim(s) 55, 60-62, 67-69, 74-78, 83-85, and 87 is/are rejected.

Claim(s) 56-59, 63-66, 70-73, 79-82, and 86 is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

1. The examiner has re-examined the application and withdrawn the previous Final Rejection from paper #10. A new Final Rejection has been set forth below based on the Amendments received 4-10-00.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 55 is rejected under 35 U.S.C. 102(b) as being anticipated by Merwarth, U. S. Patent No. 605,891.

Merwarth discloses a gasket similar to applicant's comprising a first strip c, a second strip c<sup>3</sup>, and at least one spoke c<sup>2</sup>. The first and second strips and the spokes are formed of a material adapted for sealing.

#### ***Claim Rejections - 35 USC § 103***

4. Claims 60-62, 67-69, 74-78, 83, and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merwarth in view of Smith, U. S. Patent No. 4,002,344.

As mentioned above, Merwarth discloses a gasket similar to applicant's which comprises a first and second strip and spokes. Merwarth discloses on page 2, lines 29-35, that the outer or second strip of sealing material is used to provide an "efficient seal at or near both the outer and

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inner edges" of the pipe flanges. Merwarth also discloses that the spokes, which can be used for centering, can also be formed of the same thickness as the inner and outer strips to form a seal around the bolt holes in the flanges (see page 2, lines 39-50). Merwarth does not disclose an open or closed alignment spoke extending from the second strip.

Smith teaches the use of an open 46 and closed 51 alignment spoke which center a gasket between a variety of different sized flanges. The open spoke defines a concavity 48 and centering shelf 49. The closed spoke 51 has an aperture for a bolt and a tab portion 56 with identification data. These locators, 46 and 51, are taught to "accommodate different flange sizes, bolt circles, and bolt diameters" (col. 1, lines 35-37). Therefore, flanges with different outer peripheries could be used so that the locator or alignment spoke is congruent with a larger outer flange while the outer or second strip is congruent with a smaller outer flange. As for making the alignment spokes out of the sealing material used for the strips and spokes, Merwarth has disclosed that this is desirable so as to provide a seal around the bolt holes. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include an open or closed alignment spoke as taught by Smith extending from the second strip out of the sealing material to provide a gasket which can be properly aligned between a variety of different sized flanges which would provide an efficient seal at the inner and outer edges of the flanges as well as around the bolt holes.

5. Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merwarth.

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Merwarth discloses a gasket similar to applicant's comprising a first and second strip and at least one spoke. However, Merwarth's outer or second strip is not formed in a square shape. Using a square shape is considered a design choice as applicant has not stated that using a square rather than a circle solves any stated problem or is for any particular purpose. Further, it appears that the circular shape of Merwarth would perform equally as well. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to form the second strip with a square shape as a matter of choice in design.

6. Claim 87 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merwarth as applied to claim 85 above, and further in view of Smith.

As mentioned above, Merwarth does not include a closed alignment spoke which can receive a bolt. Smith teaches the use of a closed 51 alignment spoke to center a gasket between a variety of different sized flanges. The closed spoke 51 has an aperture for a bolt. The closed spoke 51 is taught to "accommodate different flange sizes, bolt circles, and bolt diameters" (col. 1, lines 35-37). As for making the alignment spokes out of the sealing material used for the strips and spokes, Merwarth has disclosed that this is desirable so as to provide a seal around the bolt holes. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include a closed alignment spoke as taught by Smith extending from the second strip out of the sealing material to provide a gasket which can be properly aligned between a variety of different sized flanges which would provide an efficient seal at the inner and outer edges of the flanges as well as around the bolt holes.

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***Allowable Subject Matter***

7. Claims 88-92 are allowed.
8. Claims 56-59, 63-66, 70-73, 79-82, and 86 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 55-92 have been considered but are moot in view of the new ground(s) of rejection.

The examiner carefully considered applicant's amendments and request for reconsideration and has indicated any subject matter that overcomes the prior art of record. Merwarth and Merwarth in view of Smith still read on some of the claims as indicated above. Merwarth discloses the use of the sealing material for both the first and second strips as well as the spokes to provide efficient sealing at any opening or edge in the flanges. Smith teaches alignment spokes. Making them of the sealing material is considered obvious since Merwarth discloses that such would provide a seal around bolt holes when desired.

Regarding applicant's concerns about the 112 rejections made on claims 62, 69, 77, 78, 89 and 90, this rejection was made so the applicant would clarify whether a combination or sub-combination was being claimed. Any confusion is regretted. It was unclear whether the flanges were being claimed as part of the present invention. It appears from the argument in paragraph 2, page 6 of the response that the flanges are not being claimed as part of the present

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invention and merely set up an environment for the gasket. The claims have been examined based on this. The rejection under 112 second paragraph has been withdrawn.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison Pickard whose telephone number is (703) 305-0882.

ap

April 24, 2000



Anthony Knight  
Supervisory Patent Examiner  
Group 3600